

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MEMORANDUM OPINION

CONTI, Chief District Judge.

Pending before the court is a motion to modify sentence filed by defendant Mark Huellen (“defendant”). (ECF No. 109.) Defendant requests¹ that this court reduce his term of incarceration, which was imposed upon him on November 3, 2017, for violating conditions of his term of supervised release, or to permit him to serve the term of imprisonment in a halfway house or on home detention. (Id. at 1.)

With respect to defendant's request that the court reduce his term of imprisonment, this court lacks the ability to alter defendant's sentence except under very narrow circumstances, none of which are applicable here. See Freeman v. United States, 564 U.S. 522 (2011) (discussing motions under 18 U.S.C. § 3582(c)); see also Martin v. United States, Crim. No. 05-17, 2008 WL 3546433, at *1 (W.D. Pa. Aug. 12, 2008) (quoting 18 U.S.C. § 3582(c)) ("Under 18 U.S.C. § 3582(c), a court may modify a prisoner's sentence only upon a

¹ Defendant also raises other serious matters about the Bureau of Prisons in his motion to modify sentence. Defendant should contact his counselors or other staff members at Federal Correctional Institution Gilmer (“F.C.I. Gilmer”), where he is currently incarcerated, to address any issues he is having with respect to his safety and need for mental health treatment. The court contacted F.C.I. Gilmer about the matters raised in defendant’s motion, which do not concern his request for a modified sentence, and provided defendant’s letter to the facility. The court was instructed that the facility was aware of defendant’s concerns that were addressed in the letter and that defendant was going to be seen by the chief psychologist at the facility.

motion for reduction by the Director of the BOP, as authorized by Rule 35 of the Federal Rules of Criminal Procedure or in the event that the prisoner was ‘sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o).’”). Federal Rule of Criminal Procedure 35(a) provides:

Correcting Clear Error. Within 14 days after sentencing, the court may correct a sentence that resulted from arithmetical, technical, or other clear error.

FED. R. CRIM. P. 35(a). Defendant’s motion to reduce sentence was filed on January 22, 2018—more than two months after sentencing in this case. Defendant’s request for a reduction in sentence is, therefore, untimely filed. In any event, defendant does not argue that his sentence resulted from any arithmetical, technical, or other clear error. Id.

With respect to defendant’s request that the court permit him to serve his term of imprisonment in a location other than a federal prison, the Bureau of Prisons (“BOP”) is delegated the sole authority and discretion to designate the place of defendant’s confinement. 18 U.S.C. § 3621; see Galloway v. Warden of F.C.I. Ft. Dix, 385 F. App’x 59, 62 (3d Cir. 2010) (BOP delegated sole authority and discretion to designate place of confinement pursuant to § 3621). This court lacks jurisdiction to compel the BOP to designate defendant to particular facility. United States v. Isabella, No. CIV. 15-76, 2015 WL 6134082, at *13 (W.D. Pa. Oct. 16, 2015) (court denied defendant’s motion “because it lacked jurisdiction to review the Bureau of Prison’s decisions concerning the execution of Defendant’s sentence including its designation of the Renewal Center as the place of confinement and any policies restricting his activities while housed there.”) (citing Galloway, 385 F. App’x at 62).

Defendant's motion to modify sentence (ECF No. 109) will, therefore, be denied. An appropriate order will be entered.

Date: February 2, 2018

By the court:

/s/ Joy Flowers Conti
Joy Flowers Conti
Chief United States District Judge

cc: via U.S.P.S.

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